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IN THE

Supreme Court of the United States

October Term, 1965

No. 7221

MANUEL GOMEZ BARRIOS, JOSE GARCIA RODRIGUEZ, JOSE MANUEL VENTURA VENTURA, EVALDO ESCANDEL SOTO,

Appellants,

v.

STATE OF FLORIDA,

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF FLORIDA

JURISDICTIONAL STATEMENT

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No.

MANUEL GOMEZ BARRIOS, JOSE GARCIA RODRIGUEZ,
JOSE MANUEL VENTURA VENTURA, EVALDO ESCANDEL SOTO,
Appellants,

v.

STATE OF FLORIDA,

ON APPEAL FROM THE SUPREME COURT OF THE
STATE OF FLORIDA

JURISDICTIONAL STATEMENT

Appellants having appealed from a judgment of the Supreme Court of Florida, which affirmed appellants' criminal convictions in the Criminal Court of Record of Monroe County, Florida, submit this statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that a substantial question is presented.

Opinion Below

The opinion of the Supreme Court of Florida (R. 7, Appendix A, *infra*) has not been officially reported. There was no opinion in the Criminal Court of Record.

Jurisdiction

The appellants, Cuban nationals and the masters of fishing vessels owned by the Cuban Government, were convicted in the Criminal Court of Record, Monroe County, Florida, of violating the Territorial Waters Act of 1963,

Chapter 63-202 of the Laws of the State of Florida, effective May 29, 1963 (370.21 F.S.A.) by taking and possessing fish from territorial waters in the vicinity of the Dry Tortugas, Florida. Each appellant was sentenced to six months in the county jail, suspended on condition that a fine of $500 each be paid (R. 26). The fines were paid.

The convictions were affirmed by the Supreme Court of Florida in a judgment entered on April 14, 1965 (R. 7). The notice of appeal to this Court was filed on July 8, 1965 (R. 2). In both state courts, appellants had urged that the Florida statute on its face and as applied violated the Federal Constitution (*infra*, pp. 4-5). Appellants' time to file this jurisdictional statement was extended to November 8, 1965 by order dated August 27, 1965 of the court below.

Jurisdiction of this appeal is conferred in the Supreme Court by 28 U. S. C. § 1257(2). The following cases sustain the Court's jurisdiction: *Largent* v. *Texas*, 318 U. S. 418; *Dahnke-Walker Milling Co.* v. *Bondurant*, 257 U. S. 282; *Hoyt* v. *Florida*, 368 U. S. 57.

Questions Presented

Whether the Territorial Waters Act of 1963, Appendix B, *infra*, page 14, is unconstitutional on its face and as applied in that (i) it interferes with the foreign relations, war and commerce powers of the federal government, (ii) it unreasonably discriminates against a particular class of aliens in violation of the due process and equal protection clauses of the Fourteenth Amendment to the Constitution, and (iii) it is unconstitutionally vague under the due process clause.

Statutes Involved

The statute involved is the Territorial Waters Act of 1963, Chapter 63-202 of the Laws of the State of Florida,

39th Legislature (370.21 F.S.A.). It is printed in Appendix B, *infra*, pp. 14-17.

Statement of the Case

The appellants are Cuban nationals domiciled in the Republic of Cuba; each was the master of a fishing vessel owned by the Cuban Government.

On February 1, 1964, a United States Coast Guard vessel placed appellants' vessels under surveillance in international waters off the Marquesas Islands, Florida (R. 50). The Commander of the Coast Guard vessel observed the Cuban vessels fishing, trolling and at anchor in international waters at various times for the next twenty-four hours (R. 46).

On February 2, 1964, the Coast Guard Commander observed the appellants' vessels fishing at points between 1.5 and 1.9 miles off East Key, the easternmost of seven islands of a group known as the Dry Tortugas.[1] The Coast Guard Commander ordered appellants to drop anchor (R. 53, 56).

The Coast Guard then boarded and inspected the appellants' vessels to determine whether any contraband or unusual electronic equipment was aboard. Nothing suspicious was found (R. 94, 96, 97). The Coast Guard then took the vessels to the Coast Guard base at Key West to make a further inspection (R. 99, 100). This inspection similarly established that there was nothing of a suspicious nature (R. 100). Nevertheless, the Coast Guard did not release the appellants "because they were observed fishing within the territorial waters of the United States and that was the basis for detaining them" (R. 103). The Com-

[1] The Dry Tortugas form a part of the Fort Jefferson National Park area, a "monument" created by federal statute, 49 Stat. 3430 (R. 61), and are patrolled by a United States Ranger (*ibid.*).

mander of the Coast Guard was under the impression that fishing in such water was a violation of a federal law (R. 103), later asserted by Secretary of State Dean Rusk to be 46 U. S. C. A. § 251 [50 Dep't State Bull. 277 (1964)].

However, "as this statute contains no penalties" said the Secretary, *ibid.*, the Coast Guard on February 5, 1964 delivered appellants to the Florida Conservation Department (R. 103) at the latter's request (R. 89, 90). A state officer filed informations in the Criminal Court of Record for Monroe County charging appellants with a violation of the state law and they were arrested by the state authorities.

At no time prior to the arrests were the appellants notified that they were within United States territorial waters, nor were they ever ordered to leave (R. 56).

On February 18, 1964, appellants' counsel filed and argued a motion to quash the informations (R. 21-24). The motion alleged, *inter alia,* that the act was unconstitutional in that (i) it was an exercise of the war, commerce and foreign affairs powers of the federal government, Constitution, Article I, Sections 8, 10; (ii) it denied equal protection in violation of the Fourteenth Amendment; and (iii) it was unconstitutionally vague in violation of the due process clause of the Fourteenth Amendment. (See Appendix C, *infra,* p. 18). This motion was denied the same day (R. 25).

Appellants waived a jury and were tried before the court (R. 41). Following the State's presentation of evidence, appellants moved for judgment of acquittal on the same federal constitutional grounds urged in the motion to quash; the motion was overruled (R. 91-93). Appellants made a similar motion upon the close of their case, and that too was overruled (R. 108-118). Appellants were convicted and sentenced (*supra,* p. 2; R. 119).

They appealed directly to the court below and filed assignments of error in the trial court in accordance with

Florida's appellate practice (R. 30-33). These assignments of error set forth the same federal constitutional grounds which had been previously urged.

Pursuant to Article 5, Section 4 of the Constitution of the State of Florida, the Supreme Court of Florida has jurisdiction over direct appeals from Criminal Courts of Record only in those instances where the constitutional validity of a statute is directly and necessarily in issue.

The Supreme Court of Florida exercised such jurisdiction and heard oral argument limited to the question of the unconstitutionality of the act. On April 14, 1965, that court issued the following per curiam opinion;

> "Affirmed. See Uphaus v. Wyman, 360 U. S. 72, 79 Sup. Ct. 1040, 3 L. Ed. 2d 1090; Theodore R. Gibson, et al. v. Florida Legislative Investigating Committee, et al., Fla., 108 So. 2d 729, 360 U. S. 919, 79 Sup. Ct. 1433, 3 L. Ed. 2d 1535." (R. 7; Appendix A, *infra*, p. 13)

The Questions Are Substantial

1. The Territorial Waters Act is unconstitutional upon its face and as applied under Article I, Sections 1, 8 and 10, of the Constitution, because it interferes with the exclusive federal power over foreign relations, foreign commerce and war.[1] "Governmental power over external affairs is not distributed, but is vested exclusively in the federal government". *United States* v. *Belmont*, 301 U. S. 324, 330. See also *United States* v. *Curtiss-Wright Export Corp.*, 299 U. S. 304, 316-317, 319-321; *United States* v. *Pink*, 315 U. S. 203, 233; *Board of Trustees* v. *United States*, 289 U. S. 48.

The power is necessarily exclusive because it involves "the interests of the Union at large", *Holmes* v. *Jennison*,

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[1] *Cf. Skiriotes* v. *Florida*, 313 U. S. 69, involving a United States national.

39 U. S. (14 Pet.) 540; *Chy Lung* v. *Freeman*, 92 U. S. 275; *Henderson* v. *Wickham*, 92 U. S. 259, and relations with other countries requiring a uniform national policy. See *Hines* v. *Davidowitz*, 312 U. S. 52 and *Chy Lung* v. *Freeman*, *supra*. This Court has only recently indicated the special national concern with territorial waters:

> "The ocean, even its three-mile belt, is thus of vital consequence to the nation in its desire to engage in commerce and to live in peace with the world; . . . The state is not equipped in our constitutional system with the powers or the facilities for exercising the responsibilities which would be concomitant with the dominion which it seeks. Conceding that the state has been authorized to exercise local police power functions in the part of the marginal belt within its declared boundaries, these do not detract from the Federal Government's paramount rights in and power over this area."
>
> *United States* v. *California*, 332 U. S. 19, 35-36.

Congress, in enacting the Submerged Lands Act of 1953, 43 U. S. C. 1301, *et seq.*, recognized this exclusive power by reserving federal power over territorial waters where ". . . national defense, and international affairs" are at issue. 43 U. S. C. 1314(a), 67 Stat. 32.

The two cases cited by the court below, *supra*, page 5, are completely inapposite. They involved the state's right under its police power to investigate so-called subversive activities directed at its existence. This Court held in *Uphaus* v. *Wyman*, 360 U. S. 72, that this was not a field within the exclusive federal constitutional power and that the states had not been ousted from it by federal legislation.[2]

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[2] In the second case cited by the court below, *Gibson* v. *Florida Legislative Investigating Comm.*, 108 S. 2d 729, this Court merely denied certiorari, 360 U. S. 919, although in a later phase it upheld *Gibson's* rights under the due process clause; *Gibson* v. *Florida Legislative Investigating Committee*, 372 U. S. 579.

2. The state statute in terms directly interferes with the exclusive federal control over foreign relations in a number of obvious ways. (i) The Board of Conservation is required to deny licenses to the nationals of communist countries and signatories of treaties of amity and commerce with them. (ii) The Board is authorized to apply such traditional concepts of international law as "reciprocity and retorsion". Hyde, *International Law Chiefly as Interpreted and Applied by the United States* 1657 *et seq.* (2d rev. ed. 1951). (iii) The State presumes to allocate to the Secretary of State a function in its discriminatory process. (iv) Exemptions from criminal prosecution are based upon findings of "bona fide political asylum", another function of national sovereignty. See, *e.g., Factor* v. *Laubenheimer*, 290 U. S. 276; *Terlinden* v. *Ames*, 184 U. S. 270, 289; 1 Oppenheim, *International Law* § 338 (Lauterpacht 8th ed. 1955). (v) There are even overtones of "letters of marque and reprisal", exclusively a federal function, Constitution, Article I, § 8, cl. 11, and § 10, in the state's assumed power to confiscate the fishing vessels of countries beyond the pale.

3. Even if regulation of fishing by aliens in territorial waters were deemed to be a proper subject of concurrent federal and state regulation under the Constitution, *Cooley* v. *Board of Wardens*, 53 U. S. (12 How.) 299, 326, *Southern Pacific Co.* v. *Arizona*, 325 U. S. 761, 766-67, the area has been preempted by federal legislative and executive action. *Pennsylvania* v. *Nelson*, 350 U. S. 497; *Hill* v. *Florida*, 325 U. S. 538; *Cloverleaf Butter Co.* v. *Patterson*, 315 U. S. 148. The statute, as applied, interferes with United States policies concerning both Cuba and commercial fishing.

(a) The United States Government is a party to many treaties and compacts with other nations, including

Cuba, on the subject of fisheries.[3] Fishing disputes between nations have long been a subject of international law. See, *e.g.*, Riesenfeld, *Protection of Coastal Fisheries under International Law* (1942); Leonard, *International Regulation of Fisheries* (1944); Amador, *The Exploitation and Conservation of the Resources of the Sea.* (1959). United States fishing vessels have frequently been charged with violating the territorial waters of foreign countries. See *Hearings of the Subcommittee on Fisheries and Wildlife Conservation of the House Merchant Marine and Fisheries Committee on H.R. 5526 To Protect Rights of United States Vessels on High Seas,* pages 10-18, 85th Cong. 1st Sess. (1957).[4] The federal government has often protested the seizure of United States vessels and fishermen and the physical attacks made upon such vessels. See, *e.g.*, 32 Dep't State Bull. 934-40 (1955).

(b) At the time of the arrests herein, there were numerous federal statutes relating to the protection of wild-life resources.[5] In addition, the Secretary of the Treasury had emergency powers over the movement of foreign vessels in United States teritorial waters, 50 U. S. C. § 191, and

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[3] See, *e.g.*, Convention for the Conservation of Shrimp, 10 UST 1703, TIAS 4321, 358 UNTS 63; Provisional Fur Seal Agreement 58 Stat. 100, 16 U. S. C. 631A-631G; Northern Pacific Halibut Act, 50 Stat. 325, as amended, 16 U. S. C. 772-772(i); 50 CFR 301; and see generally *United Nations Legislative Services, Vol. I, Laws and Regulations of the Regime of the High Seas,* pp. 210-224 (1951).

[4] See also Hearings of the Senate Interstate and Foreign Commerce Committee on S. 1483, 85th Cong., 1st Sess. concerning the rights of United States vessels in the territorial waters of foreign countries.

[5] See, *e.g.*, 16 U. S. C. § 667(a) on state compacts; the Fish and Wildlife Act of 1956, 16 U. S. C. § 742(a); 18 U. S. C. § 41 and 16 U. S. C. § 694(a) on fishing in sanctuaries; 46 U. S. C. 142 (retaliatory suspension of commercial privileges to foreign vessels); 22 U. S. C. § 462 (compelling foreign vessels to depart); 19 U. S. C. § 1435 (entry of foreign vessels).

there was a federal statute apparently prohibiting fishing in the territorial sea but containing no penalties, 46 U. S. C. § 251.

Subsequent to appellants' convictions, the federal government further exercised its exclusive jurisdiction by making it criminally punishable for aliens to do the very acts appellants were convicted of; *i.e.*, taking and possessing fish from United States territorial waters. P. Law 308, 88th Cong., 78 Stat. 194 (May 20, 1964), 16 U. S. C. A. § 1081. This statute was enacted as a direct response to the activity of these appellants. H. Rep. 1356, U. S. C. C. A. 1964, pp. 2183, 2185.

The federal government has the duty to protect American citizens who fish in the territorial waters of other countries. To do so, it must adopt a uniform policy regarding our own territorial waters and be able to enter into treaties with other countries unhampered by the separate policies of each littoral state.

(c) The impact of the statute upon United States relations with Cuba was particularly provocative. The two countries are parties to many bilateral and multilateral treaties. See *Treaties in Force* (1965).[6] In recent years, the federal government has adopted a comprehensive national policy toward Cuba. It has sought to restrict travel. See *Zemel* v. *Rusk*, 381 U. S. 1; it has imposed a trade embargo, Pres. Proc. 3447, 27 F. R. 1085 (1962); and prohibited the furnishing of economic assistance to Cuba, Public Law 205, 88th Cong., 1st Sess., and to countries dealing with Cuba, Exec. Order 11071, 27 F. R. 12875 (1962); Pres. Proc. 3485, 27 F. R. 7371 (1962).[7]

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[6] See, *e.g.*, The Charter of the Organization of American States, 2 UST 2395, TIAS 2361; and the Pact of Bogata signed by the parties but not ratified by the Senate, I Annals of the Organization of American States, 91 (1949).

[7] See also, Foreign Assistance Act of 1961, § 620, 75 Stat. 444 (1961), 22 U. S. C. 2370(a).

More recently, the Treasury Department has prohibited the transfer of Cuban assets in the United States, Cuban Assets Control Regulations, 31 CFR 515.101, *et seq.* (1965), and Congress has passed a vesting statute, International Claims Settlement Act, 78 Stat. 1110, 88th Cong., 2d Sess. Such federal regulation, whatever may be its constitutionality, does establish a national policy which Florida may not constitutionally detract from or supplement.

In the instant case, Florida's arrest of appellants had a potentially dangerous effect upon our foreign relations, provoked public controversy between the Cuban and American governments, and debate in the United Nations;[8] the Cuban Government cut off the water supply of the United States Naval Base at Guantanamo Bay, Cuba, and the base Commander retaliated by cutting the water lines. See 50 Dep't State Bull., 274-282 (1964).

4. The act violates the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution by arbitrarily denying fishing licenses to a particular class of aliens. It would be frivolous, at best, for Florida to suggest that there is a rational connection between the conservation of fish and the classification of fishermen upon the basis of political ideology. Hence, the act is invalid under this Court's decisions in *Takahashi* v. *Fish and Game Comm'n,* 334 U. S. 410, and *Oyama* v. *California,* 332 U. S. 633.

5. The term "subscribes to the doctrine of international communism" (370.21 [3] F. S. A.) is unconstitutionally vague under this Court's recent decisions in cases touching on freedom of speech and association, *Cramp* v. *Board of Public Instruction,* 368 U. S. 278; *Baggett* v. *Bullitt,* 377 U. S. 360. The test of precision in a criminal statute is an even more demanding one than in the civil cases cited above, *Connally* v. *General Const. Co.,* 269 U. S. 385, 391;

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[8] See United Nations Security Council, Docs. S. 5532, S. 5530; 50 DEP'T STATE BULL. 279 (1964).

United States v. *Lattimore*, 215 F. 2d 847 (D. C. Cir. 1954), 127 F. Supp. 405 (D. D. C. 1955); *O'Connor* v. *United States*, 240 F. 2d 404 (D. C. Cir. 1956).

6. The statute also raises substantial procedural problems under the Due Process Clause of the Fourteenth Amendment. It grants to the state Board unlimited administrative discretion to determine who "subscribes to the doctrine of international communism" [(370.21(3) F. S. A.)]. *Cf. Marcus* v. *Search Warrants of Property*, 367 U. S. 717.

The statute also denies procedural due process because it establishes no safeguards as to the manner in which the Board of Conservation determines when a person "subscribes to" a "doctrine of international communism". There are no notices, no charges, no hearing and no appeal. Plainly, this is impermissible practice under the Constitution. See *Morgan* v. *United States*, 304 U. S. 1, 18; *Ohio Bell Telephone Co.* v. *Public Utilities Commission*, 301 U. S. 292, 302-304; *Lloyd Sabaudo* v. *Elting*, 287 U. S. 329, 335-336; *United States* v. *Abilene & S. Ry. Co.*, 265 U. S. 274, 288-289.

CONCLUSION

The questions are substantial and the Court should note probable jurisdiction.

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APPENDIX A

Opinion of the Florida Supreme Court

PER CURIAM.

Affirmed. See Uphaus v. Wyman, 360 U. S. 72, 79 Sup. Ct. 1040, 3 L. Ed. 2d 1090; Theodore R. Gibson, et al. v. Florida Legislative Investigating Committee, et al., Fla., 108 So. 2d 729, 360 U. S. 919, 79 Sup. Ct. 1433, 3 L. Ed. 2d 1535.

DREW, C. J., THOMAS, ROBERTS, THORNAL, O'CONNELL, CALDWELL and HOBSON (Retired) JJ., concur.

APPENDIX B

The Florida Territorial Waters Act of 1963 (360.21 FSA)

TERRITORIAL WATERS ACT

CHAPTER 63-202

An Act relating to territorial waters of the state of Florida; prohibiting the licensing of certain alien-owned commercial fishing vessels; making certain operations unlawful when conducted by such vessels in Florida waters; providing for enforcement by harbor masters, sheriffs, agents of the department of conservation and others; providing penalties and effective date.

WHEREAS, it is the sense of the Legislature to protect the vital State resources contained within the territorial waters of Florida in order to conserve the same and secure to the citizens of the State the full benefits of their patrimony, and

WHEREAS, the Legislature intends to deny, within limitations imposed by the Constitution of the United States, to nationals of alien neutral and hostile powers the right to draw upon the resources of waters long considered by the immemorial usages of all civilized peoples a part of our State and Nation.

NOW, THEREFORE,
Be it enacted by the Legislature of the State of Florida:

Section 1. This act may be known and cited as the Florida territorial waters act.

Section 2. It is the purpose of this act to exercise and exert full sovereignty and control of the territorial waters of the State of Florida.

Section 3. No license shall be issued by the board of conservation under section 370.06, Florida Statutes, to any vessel owned in whole or in part by any alien power, which subscribes to the doctrine of international communism, or any subject or national thereof, who subscribes to the doctrine of international communism, or any individual who subscribes to the doctrine of international communism, or who shall have signed a treaty of trade, friendship and alliance or a nonagression pact with any communist power. The board shall grant or withhold said licenses where other alien vessels are involved on the basis of reciprocity and retorsion, unless the nation concerned shall be designated as a friendly ally or neutral by a formal suggestion transmitted to the governor of Florida by the secretary of state of the United States. Upon the receipt of such suggestion licenses shall be granted under section 370.06, Florida Statutes, without regard to reciprocity and retorsion, to vessels of such nations.

Section 4. It is unlawful for any unlicensed alien vessel to take by any means whatsoever, attempt to take, or having so taken to possess, any natural resource of the State's territorial waters, as such waters are described by article I of the Constitution of Florida.

Section 5. It is the duty of all harbor masters of the State of Florida to prevent the use of any port facility in a manner which they reasonably suspect may assist in the violation of this act. Harbor masters shall endeavor by all reasonable means, which may include the inspection of nautical logs, to ascertain from masters of newly arrived vessels of all types other than warships of the United States, the presence of alien commercial fishing vessels within the territorial waters of the State of Florida, and shall transmit such information promptly to the state de-

partment of conservation and such law enforcement agencies of the State as the situation may indicate. Harbor masters shall request assistance from the United States Coast Guard in appropriate cases to prevent unauthorized departure from any port facility.

Section 6. All licensed harbor pilots are required to promptly transmit any knowledge coming to their attention regarding possible violations of this act to the harbor master of the port or the appropriate law enforcement officials.

Section 7. All law enforcement agencies of the state, including but not limited to sheriffs and agents of the department of conservation are empowered and directed to arrest the masters and crews of vessels who are reasonably believed to be in violation of this law, and to seize and detain such vessels, their equipment and catch. Such arresting officers shall take the offending crews or property before the court having jurisdiction of such offenses. All such agencies are directed to request assistance from the United States Coast Guard in the enforcement of this act when having knowledge of vessels operating in violation or probable violation of this act within their jurisdictions when such agencies are without means to effectuate arrest and restraint of vessels and their crews.

Section 8. The fine or imprisonment of persons and confiscation proceedings against vessels, gear and catch prescribed for violations of chapter 370, shall be imposed for violation of this act; provided that nothing herein shall authorize the repurchase of property for a nominal sum by the owner upon proof of lack of complicity in the violation or undertaking.

Section 9. No crew member or master seeking bona fide political asylum shall be fined or imprisoned hereunder.

Section 10. Harbor masters and law enforcement agencies, are authorized to request assistance from the civil air patrol in the surveillance of suspect vessels. Aircraft of the state forestry department or other state or county agencies which are conveniently located and not otherwise occupied may be similarly utilized. Laws 1963, c. 63-202, §§ 1-10.

APPENDIX C

Excerpts From Motion to Quash Informations

I

"The said statute is unconstitutional in that it is an exercise of the foreign affairs and war powers of the United States which subjects are exclusively within the jurisdiction of the federal government under the Constitution of the United States, Article 1, Section 8 and 10, and Article 2, Section 2.

The said statute is invalid under Article I, Sections 1 and 8, Article III, Section 2, and Article 4, Sections 3 and 4 of the United States Constitution and under the Supremacy Clause, Article 5, Section 6, in that the federal government has occupied the field of international fisheries by (a) Presidential Proclamation 2668, 10 F. R. 12304, (b) Convention with Cuba on *Conservation of Shrimp,* TIAS 4321, and (c) the *Fish and Wildlife Coordination Act of March 10, 1934,* P. Law 624, 85th Congress, as amended, 16 U. S. C. *et seq.* and the Fish and Wildlife Act of 1956, 16 U. S. C. 742-a, *et seq.* and (d) by other proclamations, executive orders, statutes, conventions, treaties and participation in international conferences on the territorial seas and related matters.

The arrest and prosecution of the defendants is in violation of (a) their right to due process and to the equal protection of the laws under the Fourteenth Amendment to the United States Constitution . . . and (b) constitutes a letter of marque and reprisal and a bill of attainder under Article I, Section 10 of the said Constitution . . . in that, *inter alia,*

> (i) the statute is directed against 'any vessel owned in whole or in part by any alien power which subscribes to the doctrine of international Commu-

nism, or any subject or national thereof who subscribes to the doctrine of international Communism, or any individual who subscribes to the doctrine of international Communism, or who shall have signed a treaty of trade, friendship and alliance or a non-aggression pact with any Communist power'; and

(ii) the statute specifically exempts from the punitive application any 'crew member or master seeking bona fide political asylum'.

The statute is void for vagueness and the informations herein do not adequately state 'the nature and cause of the accusations' . . . under the due process clause of the Fourteenth Amendment to the Constitution of the United States by reason, *inter alia,* of the use of the terms (a) 'territorial waters', (b) 'subscribes to the doctrine of international Communism', (3) 'seeking bona fide political asylum', and (4) 'the natural resources of the State of Florida.'

The prosecution of a national of a foreign country under the said statute is a denial of due process under . . . the Fourteenth Amendment to the United States Constitution in that no presumption of notice of the existence of a state law, particularly one of such character, can reasonably be imputed to such foreign national."